

## SENATE BILL No. 184

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3; IC 12-7-2; IC 12-11-14; IC 34-55-10-2.

**Synopsis:** Achieving a better life experience (ABLE) program. Establishes the Indiana achieving a better life experience (ABLE) program. Creates the Indiana achieving a better life experience board (board). Requires the board to establish a qualified ABLE program under which an individual may make contributions for a taxable year for the benefit of an eligible individual to an ABLE account to meet the qualified disability expenses of the designated beneficiary in compliance with Section 529A of the Internal Revenue Code. Sets forth duties and powers of the board. Establishes a general operating fund, endowment fund, and trust fund. Requires a taxpayer to add back the amount of any deductible contributions to or earnings realized by an ABLE account that were distributed to the taxpayer as a designated beneficiary of the ABLE account in the taxable year and not used to pay qualified disability expenses or held for the minimum length of time established by the board. Provides that a distribution from an ABLE account used to pay qualified disability expenses incurred by the designated beneficiary of the ABLE account is exempt from the adjusted gross income tax. Provides that the amount of a contribution to an ABLE account is deductible for Indiana income tax purposes up to \$8,000, in the case of an individual filing a single return, or \$16,000, in the case of a married couple filing a joint return. Provides that a debtor's interest in an ABLE account is exempt from the execution of a judgment against the debtor.

**Effective:** July 1, 2016.

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January 6, 2016, read first time and referred to Committee on Appropriations.

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Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## SENATE BILL No. 184

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.250-2015,  
2       SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2016]: Sec. 3.5. When used in this article, the term "adjusted  
4       gross income" shall mean the following:  
5       (a) In the case of all individuals, "adjusted gross income" (as  
6       defined in Section 62 of the Internal Revenue Code), modified as  
7       follows:  
8               (1) Subtract income that is exempt from taxation under this article  
9               by the Constitution and statutes of the United States.  
10              (2) Add an amount equal to any deduction or deductions allowed  
11              or allowable pursuant to Section 62 of the Internal Revenue Code  
12              for taxes based on or measured by income and levied at the state  
13              level by any state of the United States.  
14              (3) Subtract one thousand dollars (\$1,000), or in the case of a  
15              joint return filed by a husband and wife, subtract for each spouse  
16              one thousand dollars (\$1,000).  
17              (4) Subtract one thousand dollars (\$1,000) for:



- 1 (A) each of the exemptions provided by Section 151(c) of the
- 2 Internal Revenue Code;
- 3 (B) each additional amount allowable under Section 63(f) of
- 4 the Internal Revenue Code; and
- 5 (C) the spouse of the taxpayer if a separate return is made by
- 6 the taxpayer and if the spouse, for the calendar year in which
- 7 the taxable year of the taxpayer begins, has no gross income
- 8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
- 10 (A) one thousand five hundred dollars (\$1,500) for each of the
- 11 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 12 Revenue Code (as effective January 1, 2004); and
- 13 (B) five hundred dollars (\$500) for each additional amount
- 14 allowable under Section 63(f)(1) of the Internal Revenue Code
- 15 if the adjusted gross income of the taxpayer, or the taxpayer
- 16 and the taxpayer's spouse in the case of a joint return, is less
- 17 than forty thousand dollars (\$40,000).
- 18 This amount is in addition to the amount subtracted under
- 19 subdivision (4).
- 20 (6) Subtract any amounts included in federal adjusted gross
- 21 income under Section 111 of the Internal Revenue Code as a
- 22 recovery of items previously deducted as an itemized deduction
- 23 from adjusted gross income.
- 24 (7) Subtract any amounts included in federal adjusted gross
- 25 income under the Internal Revenue Code which amounts were
- 26 received by the individual as supplemental railroad retirement
- 27 annuities under 45 U.S.C. 231 and which are not deductible under
- 28 subdivision (1).
- 29 (8) Subtract an amount equal to the amount of federal Social
- 30 Security and Railroad Retirement benefits included in a taxpayer's
- 31 federal gross income by Section 86 of the Internal Revenue Code.
- 32 (9) In the case of a nonresident taxpayer or a resident taxpayer
- 33 residing in Indiana for a period of less than the taxpayer's entire
- 34 taxable year, the total amount of the deductions allowed pursuant
- 35 to subdivisions (3), (4), and (5) shall be reduced to an amount
- 36 which bears the same ratio to the total as the taxpayer's income
- 37 taxable in Indiana bears to the taxpayer's total income.
- 38 (10) In the case of an individual who is a recipient of assistance
- 39 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
- 40 subtract an amount equal to that portion of the individual's
- 41 adjusted gross income with respect to which the individual is not
- 42 allowed under federal law to retain an amount to pay state and



- 1 local income taxes.
- 2 (11) In the case of an eligible individual, subtract the amount of
- 3 a Holocaust victim's settlement payment included in the
- 4 individual's federal adjusted gross income.
- 5 (12) Subtract an amount equal to the portion of any premiums
- 6 paid during the taxable year by the taxpayer for a qualified long
- 7 term care policy (as defined in IC 12-15-39.6-5) for the taxpayer
- 8 or the taxpayer's spouse, or both.
- 9 (13) Subtract an amount equal to the lesser of:
- 10 (A) two thousand five hundred dollars (\$2,500); or
- 11 (B) the amount of property taxes that are paid during the
- 12 taxable year in Indiana by the individual on the individual's
- 13 principal place of residence.
- 14 (14) Subtract an amount equal to the amount of a September 11
- 15 terrorist attack settlement payment included in the individual's
- 16 federal adjusted gross income.
- 17 (15) Add or subtract the amount necessary to make the adjusted
- 18 gross income of any taxpayer that owns property for which bonus
- 19 depreciation was allowed in the current taxable year or in an
- 20 earlier taxable year equal to the amount of adjusted gross income
- 21 that would have been computed had an election not been made
- 22 under Section 168(k) of the Internal Revenue Code to apply bonus
- 23 depreciation to the property in the year that it was placed in
- 24 service.
- 25 (16) Add an amount equal to any deduction allowed under
- 26 Section 172 of the Internal Revenue Code.
- 27 (17) Add or subtract the amount necessary to make the adjusted
- 28 gross income of any taxpayer that placed Section 179 property (as
- 29 defined in Section 179 of the Internal Revenue Code) in service
- 30 in the current taxable year or in an earlier taxable year equal to
- 31 the amount of adjusted gross income that would have been
- 32 computed had an election for federal income tax purposes not
- 33 been made for the year in which the property was placed in
- 34 service to take deductions under Section 179 of the Internal
- 35 Revenue Code in a total amount exceeding twenty-five thousand
- 36 dollars (\$25,000).
- 37 (18) Add an amount equal to the amount that a taxpayer claimed
- 38 as a deduction for domestic production activities for the taxable
- 39 year under Section 199 of the Internal Revenue Code for federal
- 40 income tax purposes.
- 41 (19) Subtract an amount equal to the amount of the taxpayer's
- 42 qualified military income that was not excluded from the



taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

(20) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(21) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract the amount necessary from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(22) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

**(23) For a taxable year beginning after December 31, 2016, add the amount of any deductible contributions to or earnings realized by an ABL account (as defined in IC 12-11-14-1) that were:**

**(A) distributed to the taxpayer as a designated beneficiary of the ABL account in the taxable year;**

**(B) not used to pay qualified disability expenses or held for the minimum length of time established by the Indiana achieving a better life experience board; and**

**(C) not included in the taxpayer's gross income for federal income tax purposes.**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue



- 1 Code.
- 2 (3) Add an amount equal to any deduction or deductions allowed
- 3 or allowable pursuant to Section 63 of the Internal Revenue Code
- 4 for taxes based on or measured by income and levied at the state
- 5 level by any state of the United States.
- 6 (4) Subtract an amount equal to the amount included in the
- 7 corporation's taxable income under Section 78 of the Internal
- 8 Revenue Code.
- 9 (5) Add or subtract the amount necessary to make the adjusted
- 10 gross income of any taxpayer that owns property for which bonus
- 11 depreciation was allowed in the current taxable year or in an
- 12 earlier taxable year equal to the amount of adjusted gross income
- 13 that would have been computed had an election not been made
- 14 under Section 168(k) of the Internal Revenue Code to apply bonus
- 15 depreciation to the property in the year that it was placed in
- 16 service.
- 17 (6) Add an amount equal to any deduction allowed under Section
- 18 172 of the Internal Revenue Code.
- 19 (7) Add or subtract the amount necessary to make the adjusted
- 20 gross income of any taxpayer that placed Section 179 property (as
- 21 defined in Section 179 of the Internal Revenue Code) in service
- 22 in the current taxable year or in an earlier taxable year equal to
- 23 the amount of adjusted gross income that would have been
- 24 computed had an election for federal income tax purposes not
- 25 been made for the year in which the property was placed in
- 26 service to take deductions under Section 179 of the Internal
- 27 Revenue Code in a total amount exceeding twenty-five thousand
- 28 dollars (\$25,000).
- 29 (8) Add an amount equal to the amount that a taxpayer claimed as
- 30 a deduction for domestic production activities for the taxable year
- 31 under Section 199 of the Internal Revenue Code for federal
- 32 income tax purposes.
- 33 (9) Add to the extent required by IC 6-3-2-20 the amount of
- 34 intangible expenses (as defined in IC 6-3-2-20) and any directly
- 35 related intangible interest expenses (as defined in IC 6-3-2-20) for
- 36 the taxable year that reduced the corporation's taxable income (as
- 37 defined in Section 63 of the Internal Revenue Code) for federal
- 38 income tax purposes.
- 39 (10) Add an amount equal to any deduction for dividends paid (as
- 40 defined in Section 561 of the Internal Revenue Code) to
- 41 shareholders of a captive real estate investment trust (as defined
- 42 in section 34.5 of this chapter).



(11) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(13) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made



under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(12) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on





1 an obligation of a state other than Indiana, or a political  
2 subdivision of such a state, that is acquired by the taxpayer after  
3 December 31, 2011.

4 (d) In the case of insurance companies subject to tax under Section  
5 831 of the Internal Revenue Code and organized under Indiana law, the  
6 same as "taxable income" (as defined in Section 832 of the Internal  
7 Revenue Code), adjusted as follows:

8 (1) Subtract income that is exempt from taxation under this article  
9 by the Constitution and statutes of the United States.

10 (2) Add an amount equal to any deduction allowed or allowable  
11 under Section 170 of the Internal Revenue Code.

12 (3) Add an amount equal to a deduction allowed or allowable  
13 under Section 805 or Section 832(c) of the Internal Revenue Code  
14 for taxes based on or measured by income and levied at the state  
15 level by any state.

16 (4) Subtract an amount equal to the amount included in the  
17 company's taxable income under Section 78 of the Internal  
18 Revenue Code.

19 (5) Add or subtract the amount necessary to make the adjusted  
20 gross income of any taxpayer that owns property for which bonus  
21 depreciation was allowed in the current taxable year or in an  
22 earlier taxable year equal to the amount of adjusted gross income  
23 that would have been computed had an election not been made  
24 under Section 168(k) of the Internal Revenue Code to apply bonus  
25 depreciation to the property in the year that it was placed in  
26 service.

27 (6) Add an amount equal to any deduction allowed under Section  
28 172 of the Internal Revenue Code.

29 (7) Add or subtract the amount necessary to make the adjusted  
30 gross income of any taxpayer that placed Section 179 property (as  
31 defined in Section 179 of the Internal Revenue Code) in service  
32 in the current taxable year or in an earlier taxable year equal to  
33 the amount of adjusted gross income that would have been  
34 computed had an election for federal income tax purposes not  
35 been made for the year in which the property was placed in  
36 service to take deductions under Section 179 of the Internal  
37 Revenue Code in a total amount exceeding twenty-five thousand  
38 dollars (\$25,000).

39 (8) Add an amount equal to the amount that a taxpayer claimed as  
40 a deduction for domestic production activities for the taxable year  
41 under Section 199 of the Internal Revenue Code for federal  
42 income tax purposes.



(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(12) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus



1 depreciation to the property in the year that it was placed in  
2 service.

3 (4) Add an amount equal to any deduction allowed under Section  
4 172 of the Internal Revenue Code.

5 (5) Add or subtract the amount necessary to make the adjusted  
6 gross income of any taxpayer that placed Section 179 property (as  
7 defined in Section 179 of the Internal Revenue Code) in service  
8 in the current taxable year or in an earlier taxable year equal to  
9 the amount of adjusted gross income that would have been  
10 computed had an election for federal income tax purposes not  
11 been made for the year in which the property was placed in  
12 service to take deductions under Section 179 of the Internal  
13 Revenue Code in a total amount exceeding twenty-five thousand  
14 dollars (\$25,000).

15 (6) Add an amount equal to the amount that a taxpayer claimed as  
16 a deduction for domestic production activities for the taxable year  
17 under Section 199 of the Internal Revenue Code for federal  
18 income tax purposes.

19 (7) Subtract income that is:

20 (A) exempt from taxation under IC 6-3-2-21.7; and

21 (B) included in the taxpayer's taxable income under the  
22 Internal Revenue Code.

23 (8) Add an amount equal to any income not included in gross  
24 income as a result of the deferral of income arising from business  
25 indebtedness discharged in connection with the reacquisition after  
26 December 31, 2008, and before January 1, 2011, of an applicable  
27 debt instrument, as provided in Section 108(i) of the Internal  
28 Revenue Code. Subtract from the adjusted gross income of any  
29 taxpayer that added an amount to adjusted gross income in a  
30 previous year the amount necessary to offset the amount included  
31 in federal gross income as a result of the deferral of income  
32 arising from business indebtedness discharged in connection with  
33 the reacquisition after December 31, 2008, and before January 1,  
34 2011, of an applicable debt instrument, as provided in Section  
35 108(i) of the Internal Revenue Code.

36 (9) Add the amount excluded from federal gross income under  
37 Section 103 of the Internal Revenue Code for interest received on  
38 an obligation of a state other than Indiana, or a political  
39 subdivision of such a state, that is acquired by the taxpayer after  
40 December 31, 2011.

41 SECTION 2. IC 6-3-2-26 IS ADDED TO THE INDIANA CODE  
42 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2016]: Sec. 26. (a) This section applies to a taxable year beginning after December 31, 2016.

(b) As used in this section, "ABLE account" has the meaning set forth in IC 12-11-14-1.

(c) As used in this section, "designated beneficiary" has the meaning set forth in IC 12-11-14-5.

(d) As used in this section, "qualified disability expenses" has the meaning set forth in IC 12-11-14-10.

(e) A distribution from an ABLE account used to pay qualified disability expenses incurred by the designated beneficiary of the ABLE account is exempt from the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7.

SECTION 3. IC 6-3-2-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 27. (a) This section applies to a taxable year beginning after December 31, 2016.

(b) As used in this section, "ABLE account" has the meaning set forth in IC 12-11-14-1.

(c) As used in this section, "contribution" means the amount of money directly provided to an ABLE account by a taxpayer. The term does not include a rollover of money into an ABLE account as described in Section 529A(c) of the Internal Revenue Code.

(d) As used in this section, "taxpayer" means:

- (1) an individual filing a single return; or
- (2) a married couple filing a joint return.

(e) Each taxable year, a taxpayer who makes a contribution to an ABLE account may deduct from the taxpayer's adjusted gross income the lesser of:

- (1) the amount of the contribution made by the taxpayer during the taxable year; or
- (2) either of the following, whichever is applicable:
  - (A) Eight thousand dollars (\$8,000), in the case of an individual filing a single return.
  - (B) Sixteen thousand dollars (\$16,000), in the case of a married couple filing a joint return.

SECTION 4. IC 12-7-2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 0.5. "ABLE account", for purposes of IC 12-11-14, has the meaning set forth in IC 12-11-14-1.

SECTION 5. IC 12-7-2-22, AS AMENDED BY P.L.145-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 22. "Board" means the following:



(1) For purposes of IC 12-10-10, IC 12-10-10.5, and IC 12-10-11, the community and home options to institutional care for the elderly and disabled board established by IC 12-10-11-1.

**(2) For purposes of IC 12-11-14, the meaning set forth in IC 12-11-14-4.**

~~(2)~~ **(3)** For purposes of IC 12-12-7-5, the meaning set forth in IC 12-12-7-5(a).

~~(3)~~ **(4)** For purposes of IC 12-15-35, the meaning set forth in IC 12-15-35-2.

SECTION 6. IC 12-7-2-58.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 58.5. "Designated beneficiary", for purposes of IC 12-11-14, has the meaning set forth in IC 12-11-14-5.**

SECTION 7. IC 12-7-2-76, AS AMENDED BY P.L.145-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 76. (a) "Eligible individual", for purposes of:

(1) IC 12-10-10, has the meaning set forth in IC 12-10-10-4; ~~and~~

(2) IC 12-10-10.5, has the meaning set forth in IC 12-10-10.5-3;

**and**

**(3) IC 12-11-14, has the meaning set forth in IC 12-11-14-6.**

(b) "Eligible individual" has the meaning set forth in IC 12-14-18-1.5 for purposes of the following:

(1) IC 12-10-6.

(2) IC 12-14-2.

(3) IC 12-14-18.

(4) IC 12-14-19.

(5) IC 12-15-2.

(6) IC 12-15-3.

(7) IC 12-16-3.5.

(8) IC 12-20-5.5.

SECTION 8. IC 12-7-2-154.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 154.6. "Qualified disability expenses", for purposes of IC 12-11-14, has the meaning set forth in IC 12-11-14-10.**

SECTION 9. IC 12-11-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

**Chapter 14. Achieving a Better Life Experience (ABLE) Program**

**Sec. 1. As used in this chapter, "ABLE account" refers to an achieving a better life experience (ABLE) account established by**



1 an eligible individual that:

2 (1) is maintained under a qualified ABLE program; and

3 (2) meets the requirements of Section 529A of the Internal  
4 Revenue Code.

5 Sec. 2. As used in this chapter, "ABLE program" refers to the  
6 achieving a better life experience program established under this  
7 chapter under which a person may make contributions for a  
8 taxable year for the benefit of an eligible individual to an ABLE  
9 account to meet the qualified disability expenses of the designated  
10 beneficiary in compliance with Section 529A of the Internal  
11 Revenue Code.

12 Sec. 3. As used in this chapter, "benefits" means the payment of  
13 qualified disability expenses on behalf of a designated beneficiary  
14 from an ABLE account.

15 Sec. 4. As used in this chapter, "board" means the Indiana  
16 achieving a better life experience program board created by  
17 section 11 of this chapter.

18 Sec. 5. As used in this chapter, "designated beneficiary" means  
19 the eligible individual who has established an ABLE account and  
20 is the owner of the account.

21 Sec. 6. As used in this chapter, "eligible individual" means an  
22 individual who during a taxable year:

23 (1) is entitled to benefits based on blindness or disability  
24 under Title II or Title XVI of the federal Social Security Act  
25 and the blindness or disability occurred before the individual  
26 became twenty-six (26) years of age; or

27 (2) has a disability certification that has been filed as set forth  
28 in Section 529A of the Internal Revenue Code.

29 Sec. 7. As used in this chapter, "financial institution" means a  
30 bank, insurance company, or registered investment company.

31 Sec. 8. As used in this chapter, "participant" means a person  
32 who has entered into a participation agreement under this chapter  
33 for the advance payment of qualified disability expenses on behalf  
34 of a designated beneficiary.

35 Sec. 9. As used in this chapter, "participation agreement" means  
36 an agreement between a participant and the board under the  
37 requirements of this chapter.

38 Sec. 10. As used in this chapter, "qualified disability expenses"  
39 means any expenses related to the eligible individual's blindness or  
40 disability that are incurred for the benefit of an eligible individual,  
41 including the following:

42 (1) Education.



- (2) Housing.
- (3) Transportation.
- (4) Employment training and support.
- (5) Assistive technology and personal support services.
- (6) Health.
- (7) Prevention and wellness.
- (8) Management and administrative.
- (9) Legal fees.
- (10) Oversight and monitoring.
- (11) Funeral and burial.
- (12) Other expenses approved by the federal government for a qualified ABLE program.

Sec. 11. (a) The Indiana achieving a better life experience program board is created. The board is a body corporate and politic.

(b) The board:

- (1) is not an agency of the state; and
- (2) is an instrumentality of the state performing essential governmental functions.

(c) The board shall establish a qualified ABLE program.

(d) Because the management and operation of a qualified ABLE program and all funds and ABLE accounts established under this chapter constitute the performance of an essential public function, the following are exempt from taxation by the state and by any political subdivision of the state:

- (1) The board's management and operations.
- (2) The board's property and assets.
- (3) All property and assets held by or for the board, except individual ABLE accounts.
- (4) The investment income and earnings (whether interest, gains, or dividends) on:

(A) the board's property and assets; and

(B) all property and assets held by or for the board;

including all funds and accounts established under this article.

(e) The board may contract with public or private entities or persons for the provision of all or any part of the services the board considers necessary for the management and operation of the board, including the qualified ABLE program and all funds and accounts of the board.

(f) The board is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The board is a governing body for purposes of IC 5-14-1.5.



1       **Sec. 12. (a) The board consists of the following seven (7)**  
 2 **members:**

3       **(1) The following four (4) ex officio members:**

4       **(A) The treasurer of state.**

5       **(B) The secretary of family and social services.**

6       **(C) The commissioner of the Indiana office of**  
 7 **administration.**

8       **(D) The secretary of the Indiana economic development**  
 9 **corporation.**

10       **(2) Three (3) appointed members who:**

11       **(A) are appointed by the governor; and**

12       **(B) have knowledge, skill, and experience in finance,**  
 13 **investment, banking, or deposit rate determination.**

14       **(b) A member appointed under subsection (a)(2) may not be an**  
 15 **official or employee of the state during the member's term of**  
 16 **service on the board.**

17       **(c) Not more than two (2) of the appointed members of the**  
 18 **board may belong to the same political party.**

19       **(d) Subject to subsection (b), an appointed member serves a four**  
 20 **(4) year term. An appointed member shall hold over after the**  
 21 **expiration of the member's term until the member's successor is**  
 22 **appointed and qualified.**

23       **(e) A vacancy must be filled for the balance of an unexpired**  
 24 **term in the same manner as the original appointment.**

25       **(f) The treasurer of state shall serve as chairperson of the board.**  
 26 **The board shall annually elect one (1) of its ex officio members as**  
 27 **vice chairperson, and may elect any other officer the board desires.**  
 28 **The board shall meet at the call of the chairperson and as provided**  
 29 **in the bylaws of the authority. Meetings of the board may be held**  
 30 **anywhere in Indiana.**

31       **(g) The governor may remove an appointed member for**  
 32 **misfeasance, malfeasance, willful neglect of duty, or other cause**  
 33 **after notice and a public hearing, unless the member expressly**  
 34 **waives the notice and hearing in writing.**

35       **(h) A member of the board is not entitled to the minimum salary**  
 36 **per diem provided by IC 4-10-11-2.1(b). A member is entitled to**  
 37 **reimbursement for traveling expenses and other expenses actually**  
 38 **incurred in connection with the member's duties.**

39       **(i) Four (4) members of the board constitute a quorum for:**

40       **(1) the transaction of business at a meeting of the board; or**

41       **(2) the exercise of a power or function of the authority.**

42       **(j) The affirmative vote of a majority of all the members of the**





board who are present is necessary for the authority to take action. A vacancy in the membership of the board does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. An action taken by the board under this article may be authorized by:

- (1) resolution at any regular or special meeting; or
- (2) unanimous consent of all the members who have not abstained.

A resolution takes effect immediately upon adoption and need not be published or posted.

Sec. 13. The board may do the following:

(1) Develop and implement a qualified ABLE program through:

- (A) rules or emergency rules under IC 4-22-2; or
- (B) rules, guidelines, procedures, or policies established by the board.

(2) Develop educational programs and distribute informational materials for participants and their families.

(3) Enter into agreements with any financial institution or any state or federal agency as required for the operation of the ABLE program.

(4) Enter into participation agreements with participants.

(5) Accept any grants, gifts, appropriations, and other money from any unit of federal, state, or local government, or any other person for deposit into the account of the ABLE program.

(6) Invest the funds received from participants in appropriate investment instruments to achieve long term total return through a combination of capital appreciation and current income.

(7) Make appropriate payments and distributions on behalf of designated beneficiaries in accordance with participation agreements.

(8) Make refunds to participants upon the termination of participation agreements in accordance with the provisions, limitations, and restrictions set forth in this chapter and the rules adopted by the board.

(9) Make provisions for the payment of costs of administration and operation of the ABLE program.

(10) Employ personnel necessary to carry out the duties in this chapter.

(11) Exercise all the powers granted by this chapter and have



all other powers necessary to carry out the purpose of this chapter.

**Sec. 14. A person designated by the board:**

- (1) shall keep a record of the proceedings of the board;
- (2) shall be custodian of:
  - (A) all books, documents, and papers filed with the board; and
  - (B) the minutes book or journal of the board; and
- (3) may copy all minutes and other records and documents of the board and may certify that the copies are true copies.

**Sec. 15. Before the adoption and implementation of a qualified ABLE program:**

- (1) the chairperson;
- (2) the vice chairperson; and
- (3) any officer elected by the board or member of the board authorized by resolution to handle funds or sign checks;

shall execute a surety bond in the penal sum of one hundred thousand dollars (\$100,000). The surety bond must be conditioned upon the faithful performance of the duties of the office of the principal and shall be executed by a surety company authorized to transact business in Indiana. The board shall pay the cost of the bonds.

**Sec. 16. Notwithstanding any other law, it is not a conflict of interest or violation of any other law for a person to serve as a member of the board. However, a member shall disclose a conflict of interest relating to actions of the board as required and in a manner provided by IC 35-44.1-1-4.**

**Sec. 17. The following are established:**

- (1) The general operating fund.
- (2) The endowment fund.
- (3) The trust fund, and within the trust fund, the following:
  - (A) The administrative account.
  - (B) The program account.

**Sec. 18. The board shall establish and implement investment policies in accordance with IC 5-13 for the following:**

- (1) Money in the general operating fund.
- (2) Money in the administrative account.
- (3) Any other money of the board other than money in:
  - (A) the endowment fund; and
  - (B) the program account.

**Sec. 19. The board shall establish and implement investment policies for money in:**



1           (1) the endowment fund; and  
 2           (2) the program account;  
 3 for investment in the manner provided by IC 30-4-3-3.

4       **Sec. 20. (a) The board may:**

5           (1) delegate to appointed investment counselors authority to  
 6           act in place of the board in the investment and reinvestment  
 7           of all or part of the fund; and

8           (2) delegate to the counselors the authority to act in place of  
 9           the board in the holding, purchasing, selling, assigning,  
 10          transferring, or disposing of any or all of the securities,  
 11          investments, and proceeds thereof in which the funds have  
 12          been invested.

13       **(b) An investment counselor described in subsection (a) must be**  
 14       **registered as an investment adviser with the United States**  
 15       **Securities and Exchange Commission.**

16       **Sec. 21. In exercising or delegating its investment powers and**  
 17       **authority, the board shall exercise ordinary business care and**  
 18       **prudence under the facts and circumstances prevailing at the time**  
 19       **of the action or decision.**

20       **Sec. 22. An investment transaction authorized by the board may**  
 21       **not be handled by any company or firm in which a member of the**  
 22       **board has a substantial interest. A member of the board may not**  
 23       **profit directly or indirectly from an investment prohibited by this**  
 24       **section.**

25       **Sec. 23. A member of the board or employee of the ABLE**  
 26       **program may not receive any gain or profit from any funds or**  
 27       **transaction of the ABLE program. Any member of the board,**  
 28       **employee, or agent of the ABLE program accepting any gratuity**  
 29       **or compensation for the purpose of influencing the member's,**  
 30       **employee's, or agent's action with respect to the investment or**  
 31       **management of the funds of the ABLE program forfeits the office**  
 32       **and in addition is subject to the penalties prescribed for bribery.**

33       **Sec. 24. (a) The board may enter into ABLE program**  
 34       **participation agreements with participants on behalf of designated**  
 35       **beneficiaries under this chapter. The participation agreement must**  
 36       **present the information in a manner that is easily understandable**  
 37       **by the general public. The participation agreement must include**  
 38       **the following:**

39           (1) Terms and conditions of the ABLE program in which the  
 40           participant makes contributions.

41           (2) Methods for calculating the return on the contribution  
 42           made by the participant.



1           **(3) Disclosure of the risk associated with depositing funds with**  
 2           **the board.**

3           **(4) Disclosure of the existence of any load charge or similar**  
 4           **charge assessed against the accounts of the participants for**  
 5           **administration or service.**

6           **(b) Unless otherwise permitted under Section 529A of the**  
 7           **Internal Revenue Code, the participant must be the designated**  
 8           **beneficiary of the ABLE account. However, if the designated**  
 9           **beneficiary of the account is a minor or has a custodian or other**  
 10           **fiduciary appointed for the purpose of managing the designated**  
 11           **beneficiary's financial affairs, the parent, custodian, or other**  
 12           **fiduciary of the designated beneficiary may serve as the participant**  
 13           **if such a form of ownership is permitted or not prohibited by**  
 14           **Section 529A of the Internal Revenue Code.**

15           **Sec. 25. The board shall establish an annual and total**  
 16           **participant contribution limit with respect to a designated**  
 17           **beneficiary that may not be less than the contribution limit by the**  
 18           **Indiana family college savings program board for qualified tuition**  
 19           **savings programs established under IC 21-9-7.**

20           **Sec. 26. (a) The board shall establish a minimum length of time**  
 21           **that contributions and earnings must be held by the ABLE**  
 22           **program to qualify as tax exempt under IC 34-55-10-2. Any**  
 23           **contributions or earnings that are withdrawn or distributed from**  
 24           **an ABLE account before the expiration of the minimum length of**  
 25           **time must be included in the income of the designated beneficiary**  
 26           **under IC 6-3-1-3.5(a)(23) for purposes of the Indiana adjusted**  
 27           **gross income tax.**

28           **(b) The board may establish any other requirements that it**  
 29           **considers appropriate to prevent contributions on behalf of a**  
 30           **designated beneficiary from exceeding what is necessary to provide**  
 31           **for the qualified disability expenses of the designated beneficiary.**

32           **Sec. 27. All money paid by a participant in connection with a**  
 33           **participation agreement must be deposited and invested by the**  
 34           **board. Contributions and earnings accumulated on behalf of**  
 35           **participants in the ABLE program may be used, as provided in the**  
 36           **participation agreement, for qualified disability expenses.**

37           **Sec. 28. Any participant may cancel a participation agreement**  
 38           **at will. The board shall impose a penalty equal to or greater than**  
 39           **ten percent (10%) of the earnings of an ABLE account for any**  
 40           **distribution that is not:**

41           **(1) used exclusively for qualified disability expenses of the**  
 42           **designated beneficiary;**



- 1           **(2) made because of the death of the designated beneficiary;**  
 2           **or**  
 3           **(3) held in the fund for the minimum length of time**  
 4           **established by the board.**

5           **Sec. 29. The assets of the ABLE program must at all times be**  
 6           **preserved, invested, and expended only for the purposes set forth**  
 7           **in this chapter and in accordance with the participation**  
 8           **agreements. No property rights concerning the program exist in**  
 9           **favor of the state.**

10          **Sec. 30. (a) The funds, accounts, management, and operations**  
 11          **of the board are subject to annual audit by an independent public**  
 12          **accounting firm.**

13          **(b) The board shall transmit copies of each annual audit to the**  
 14          **governor and general assembly in an electronic format under**  
 15          **IC 5-14-6. Upon request, the board shall make copies of the audit**  
 16          **available to the public.**

17          SECTION 10. IC 34-55-10-2, AS AMENDED BY P.L.160-2012,  
 18          SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19          JULY 1, 2016]: Sec. 2. (a) This section does not apply to judgments  
 20          obtained before October 1, 1977.

21          (b) The amount of each exemption under subsection (c) applies until  
 22          a rule is adopted by the department of financial institutions under  
 23          section 2.5 of this chapter.

24          (c) The following property of a debtor domiciled in Indiana is  
 25          exempt:

26           (1) Real estate or personal property constituting the personal or  
 27           family residence of the debtor or a dependent of the debtor, or  
 28           estates or rights in that real estate or personal property, of not  
 29           more than fifteen thousand dollars (\$15,000). The exemption  
 30           under this subdivision is individually available to joint debtors  
 31           concerning property held by them as tenants by the entireties.

32           (2) Other real estate or tangible personal property of eight  
 33           thousand dollars (\$8,000).

34           (3) Intangible personal property, including choses in action,  
 35           deposit accounts, and cash (but excluding debts owing and  
 36           income owing), of three hundred dollars (\$300).

37           (4) Professionally prescribed health aids for the debtor or a  
 38           dependent of the debtor.

39           (5) Any interest that the debtor has in real estate held as a tenant  
 40           by the entireties. The exemption under this subdivision does not  
 41           apply to a debt for which the debtor and the debtor's spouse are  
 42           jointly liable.



(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

(9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision

(10) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

(10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:



- 1 (A) excess contributions, as described in Section 4973(e) of  
 2 the Internal Revenue Code of 1986, and earnings on the excess  
 3 contributions;  
 4 (B) contributions made by the debtor within one (1) year  
 5 before the date of the levy or the date a bankruptcy petition is  
 6 filed by or against the debtor, and earnings on the  
 7 contributions; or  
 8 (C) the excess over five thousand dollars (\$5,000) of aggregate  
 9 contributions made by the debtor for all accounts under this  
 10 subdivision and qualified tuition programs under subdivision  
 11 (9) having the same designated beneficiary:  
 12 (i) not later than one (1) year before; and  
 13 (ii) not earlier than two (2) years before;  
 14 the date of the levy or the date a bankruptcy petition is filed by  
 15 or against the debtor, and earnings on the excess contributions.  
 16 (11) The debtor's interest in a refund or a credit received or to be  
 17 received under the following:  
 18 (A) Section 32 of the Internal Revenue Code of 1986 (the  
 19 federal earned income tax credit).  
 20 (B) IC 6-3.1-21-6 (the Indiana earned income tax credit).  
 21 (12) A disability benefit awarded to a veteran for a service  
 22 connected disability under 38 U.S.C. 1101 et seq. This  
 23 subdivision does not apply to a service connected disability  
 24 benefit that is subject to child and spousal support enforcement  
 25 under 42 U.S.C. 659(h)(1)(A)(ii)(V).  
 26 (13) Compensation distributed from the supplemental state fair  
 27 relief fund under IC 34-13-8 to an eligible person (as defined in  
 28 IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2). This  
 29 subdivision applies even if a debtor is not domiciled in Indiana.  
 30 **(14) Any interest the debtor has in an ABLE account (as**  
 31 **defined in IC 12-11-14-1), but only to the extent that funds in**  
 32 **the ABLE account are not attributable to:**  
 33 **(A) excess contributions, as described in Section 529A of**  
 34 **the Internal Revenue Code, and earnings on the excess**  
 35 **contributions; or**  
 36 **(B) contributions made by the debtor within one (1) year**  
 37 **before the date of the levy or the date a bankruptcy**  
 38 **petition is filed by or against the debtor, and earnings on**  
 39 **the contributions.**  
 40 (d) A bankruptcy proceeding that results in the ownership by the  
 41 bankruptcy estate of a debtor's interest in property held in a tenancy by  
 42 the entireties does not result in a severance of the tenancy by the



- 1     entireties.
- 2     (e) Real estate or personal property upon which a debtor has
- 3     voluntarily granted a lien is not, to the extent of the balance due on the
- 4     debt secured by the lien:
- 5         (1) subject to this chapter; or
- 6         (2) exempt from levy or sale on execution or any other final
- 7     process from a court.

